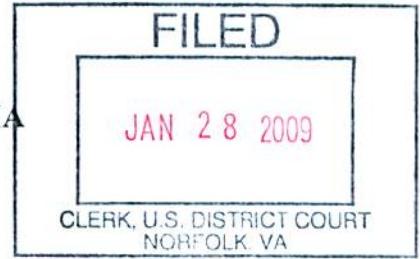


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

DERRICK SEAN HINES, #345193,



Petitioner,

v.

ACTION NO. 2:08cv102

GENE M. JOHNSON, Director,
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on December 8, 2004, in the Circuit Court for the City of Richmond for first degree murder, second degree murder, and two counts of use of a firearm, as a result of which he was sentenced to serve seventy-eight years in the Virginia penal system.

The petition was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The United States Magistrate Judge filed a Report and Recommendation on December 18, 2008, recommending dismissal of the petition. By copy of the Report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Report and Recommendation and the time for filing same has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and

Recommendation filed December 18, 2008, finding the petition time-barred by 28 U.S.C. § 2244(d)(2). Therefore, it is ORDERED that the petition be DENIED and DISMISSED and that judgment be entered in favor of the respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment. Petitioner has failed to demonstrate “a substantial showing of the denial of a constitutional right;” therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.



Raymond A. Jackson
United States District Judge

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

January 28 , 2009